Government
Publications

ONTARIO

THE ONTARIO MUNICIPAL BOARD
145 Queen Street West
Toronto, 1.

62nd ANNUAL REPORT

of

THE ONTARIO MUNICIPAL BOARD

Upon the Affairs of The Board

During the Year Ended

December 31, 1967

TO: THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Pursuant to Section 100 of
The Ontario Municipal Board Act
R.S.O. 1960, Chapter 274

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ONTARIO

THE ONTARIO MUNICIPAL BOARD
145 Queen Street West
Toronto, 1.

PART I

ESTABLISHMENT AND OPERATION

The Board is given jurisdiction under a large number of statutes but its procedure and general powers are governed by The Ontario Municipal Board Act. The Board carries out and performs statutory duties and functions only, and while it is a corporate body the practice is strictly followed of assigning members to specific applications which require a hearing and thereafter they are considered seized of such application. If a change must be made for an unavoidable reason the hearing is commenced de novo. Two members are a quorum to hear and dispose of any application and the Chairman may appoint one member to hear any application and report to the Board. In such cases the decision or order is made by the Chairman or by two other members, one of whom must be a vice-chairman.

The Board is given jurisdiction under a number of statutes but its procedure and general powers are governed by The Ontario Municipal Board Act.

Two functions of the Board, namely, the hearing of assessment appeals from County and District judges and acting as arbitrator to award compensation in expropriation cases can be said to be strictly judicial while most, if not all, of the Board's other jurisdiction, whether by way of appeal or as a tribunal of first instance is administrative.

It will be noted in Part II that the number of Board members was increased in 1966 from 12 to 14.

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PART II

MEMBERSHIP AND ORGANIZATION

The membership and organization of the Board during the period covered by this report was as follows:

J. A. KENNEDY, Q.C. (Appointed October 1st, 1956)	Chairman
A. H. ARRELL, Q.C. (Appointed June 30th, 1961)	Vice-Chairman
H. E. ROBERTS (Appointed June 30th, 1961)	Vice-Chairman
D. JAMIESON (Appointed December 1st, 1955)	Vice-Chairman
W. SHUB, Q.C. (Appointed June 1st, 1963)	Vice-Chairman
W. GREENWOOD (Appointed January 1st, 1953)	Member
V. S. MILBURN (Appointed April 1st, 1956)	Member
A. L. McCRAE (Appointed December 1st, 1958)	Member
J. V. LUDGATE (Appointed April 1st, 1962)	Member
F. G. BLAKE (Appointed November 15th, 1962)	Member
R. M. McGUIRE (Appointed November 1st, 1963)	Member
W. T. SHRIVES (Appointed October 18th, 1965)	Member
W. H. J. THOMPSON, Q.C. (Appointed July 1st, 1966)	Member
R. J. MARIN (Appointed September 1st, 1966)	Member

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R. SCOTT (Appointed June 1st, 1967)	Secretary
D. H. SUTHERLAND (Appointed January 1st, 1963)	Registrar

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All Board members and staff are engaged full-time. The Board's Chambers during the year were located in the Ontario Government Building at 145 Queen Street West, Toronto.

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PART III

JURISDICTION AND FUNCTIONS

As mentioned earlier, some of the Board's functions are purely judicial while others are administrative. However, it can be said that the jurisdiction and function of the Board are a part of what is known as the administrative process. The Board is not a department of government but a tribunal exercising a wide variety of jurisdiction with respect to municipalities, a great part of which was exercised at one time by the Executive Council of the province or by the Legislature.

A large number of applications made to this Board, for example, applications for approval of capital expenditures, are dealt with in a purely administrative manner and no hearing of any nature is held. The Board acts on written material filed by the applicant.

Exceptions to this, however, in the case of capital expenditures are those cases in which a special rate is to be charged to recover the whole or part of the cost of a capital project. In many of these cases the statute requires notice to those sought to be specially charged and in all other cases the Board directs such notice. Where there are objections to the payment of a special rate a hearing is always held.

There are also cases in which a public hearing is not required by statute but the Board on its own motion decides that a public hearing should be held.

When the Board does hold a hearing it is subject in law to the rules of natural justice which, as applied in this case, could be stated as follows:

1: The tribunal shall be free from bias.

2: All persons having an interest in the subject matter shall be heard.

In matters of law and jurisdiction there is an appeal from the Board to the Court of Appeal and on all matters there is an appeal to the Lieutenant-Governor in Council.

The actual duties and functions of the Board are found largely in The Municipal Act, The Assessment Act, The Planning Act and the school acts, but in addition there is a myriad of other statutory provisions which confer jurisdiction on the Board in a very wide variety of cases. The functions and jurisdiction of the Board may be divided into two general categories:

1: Responsibility for the sound growth and development of municipalities within the framework of the statutes with particular regard to economic stability.

2: Jurisdiction as arbitrator in the first instance or by way of appeal to determine compensation to be paid by the Crown in the right of Ontario or its Crown corporations, by municipalities and other local authorities, and by certain private corporations.

These two divisions are reported on in Parts IV and V respectively of this report.

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PART IV

GROWTH AND ECONOMIC STABILITY OF MUNICIPALITIES

For the purpose of clarity in this report and for convenience the Board's jurisdiction in this part can be divided under the following headings:

1: Constitution, Boundary Revision and Dissolution of Municipalities.

2: Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof.

3: Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision.

4: Assessment Appeals.

SECTION 1

Constitution, Boundary Revision and Dissolution of Municipalities

Given in Schedule "A" to this report is a list of seventeen annexations ordered by the Board during the year.

Effective January 1st, 1968 the Township of Toronto was erected into the Town of Mississauga.

The Township of Whitby and the Town of Whitby were amalgamated as the new Town of Whitby effective January 1st, 1968.

SECTION 2

Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof

Each year the Board requires every municipality seeking approval of any capital expenditure to file with the Board a completed questionnaire giving information in some detail as to the assessment and capital debt of the municipality. This information is required and used in assessing the ability of the municipality to incur new capital debt.

In a number of municipalities, which include all cities, a substantial number of towns and villages and a number of townships, the Board requires to be filed a five-year forecast showing

the estimate made by the Council of the capital needs for the whole or part of the cost of which the municipality expects to be called on to issue debentures in each of the five years. This forecast is studied in the light of the financial position of the municipality and if the forecast for the current year is found to be within the financial competence of the municipality and otherwise acceptable, a quota is established for the municipality against which are charged all applications for expenditure. This avoids the necessity of examining the capital position of the municipality on each new application.

The number of municipalities placed on quota during the year 1967 was as follows:

Cities	33	
Towns	61	
Townships	31	
Villages	6	131

The Board also keeps watch over sharp increases in debt of a municipality and over special rates to be imposed to meet the cost of capital undertakings. In the latter case notice is directed to those sought to be specially assessed and if objection is made a hearing is held.

In the year 1967 the Legislature enacted an amendment to Section 64 of The Ontario Municipal Board Act which will permit the Board to make a blanket order approving and at the same time limiting the amount of capital expenditures which may be undertaken by the municipality without specific approval of the Board, providing all other requirements of the law in respect of any particular project have been met. The statute requires that before any project is undertaken the treasurer of the municipality must certify to the Council that sufficient funds remain available for such project out of the blanket amount approved by this Board for the current year.

The Board has proposed to institute this new procedure as a pilot project in a selected number of municipalities during

the year 1968 and would hope that when the procedure has been perfected this advantage would be extended to all municipalities on quota.

The following table shows the number of new capital expenditure applications received and the total amount approved in each of the last five years :

Year	Number	Amount
1963	2,107	$ 382,913,130.95
1964	2,641	476,794,469.95
1965	2,690	510,137,199.62
1966	2,874	619,231,676.61
1967	2,869	608,595,545.48

As a result of a requirement contained in The Ontario Education Capital Aid Corporation Act passed in 1966 the projects of all school boards to be financed under the provisions of this statute require the approval of this Board under Section 64 of The Ontario Municipal Board Act.

This means that many separate school boards are required, for the first time, to obtain the approval of this Board under Section 64 of The Ontario Municipal Board Act. It is understandable that this legislation has very greatly increased the number of applications to this Board for approval of capital expenditures for school purposes.

Ontario Water Resources Commission

The Ontario Water Resources Commission Act provides for the undertaking by the Commission on behalf of a municipality of the construction of water works and sewerage works. Since these projects create a debt of the municipalities they require the approval of the Board under Section 64 of The Ontario Municipal Board Act. When part of the cost is to be raised by a special rate the Board requires public notice and if objections are made a public hearing is held.

During the year 1967 the Board received 54 applications from the Commission for projects at an estimated cost of $9,383,985.58.

SECTION 3

Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision

The jurisdiction of the Board under this heading is conferred by The Planning Act.

The various duties imposed on the Board by this Act and particularly by Section 30 which requires Board approval of every land use by-law, or amending by-law, passed under the authority of that section, bring before the Board for consideration difficulties and problems which are perhaps closer to the interests and welfare of the private individual than nearly any other facet of civil government as distinguished from criminal jurisdiction.

This Board has followed the principle that the rights and interests of minorities are often different from the greatest common good of the whole community. Since normally the duty of local elected representatives is to serve the greatest common good, it follows that the rights of individuals or minorities and the decision made by local elected representatives are sometimes severely at variance. Frequently when it is deemed just to approve the decision of the local elected representatives a bitter reaction results from the minority or individuals who may suffer from such a decision. On the other hand, when local elected representatives have carefully and honestly considered a problem and arrived at a decision which in their opinion serves the greatest common good they are often bitter and vocally so when the Board finds it necessary to vary their decision to serve what the Board considers to be paramount private rights.

In this, as in all areas of the Board's jurisdiction, respect must be maintained for local autonomy. Only in case

of clear merit is the decision of local elected representatives reversed.

The number of applications made to the Board under this legislation during the year, with figures for the two previous years, is as follows:

	1967	1966	1965
Applications for approval of restricted area by-laws	1208	1184	1129
Applications for approval of plans of redevelopment	2	8	3
Applications for approval of proposed plans of sub-division	11	18	12
Applications for approval of official plan amendments	33	41	21
Appeals to Board for a direction that a restricted area by-law be amended by council	45	43	47
Appeals from committees of adjustment	401	413	302

SECTION 4

Assessment Appeals

During the year 1967 assessment appeals were made to the Board under the several statutes as follows:

The Assessment Act	223
The Local Improvement Act	5

There were also filed during the year two appeals for a review of the division of liability among municipalities comprising high school districts.

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PART V

ARBITRATIONS IN RESPECT OF COMPENSATION FOR LANDS TAKEN OR INJURIOUSLY AFFECTED

The Board has jurisdiction to determine compensation or damages to be allowed for lands taken or injuriously affected under various public statutes. The courts have held that in this field the Board must follow strict rules of evidence and what amounts to reasonably strict court procedure. As required by the rules of natural justice the Board's decisions must be based only on known evidence and after a full hearing conducted according to legal principles. As noted earlier, this is a judicial function.

During the year 1967 applications were made to the Board for compensation for damages to be allowed for lands taken or injuriously affected by authorities with the right of expropriation as follows:

	1967
The Commuter Services Act	1
The Conservation Authorities Act	11
The Expropriation Procedures Act	2
The Highway Improvement Act	32
The Municipal Act	36
The Ontario Water Resources Commission Act	2
The Power Commission Act	3
The Public Service Works on Highways Act	4
The Public Works Act	2
The Schools Administration Act	4
The University Expropriation Powers Act	7
	104

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PART VI

REVENUE

In compliance with the requirement of Section 99 of The Ontario Municipal Board Act the Board has adopted a tariff of fees payable on various types of applications and orders.

The following table sets forth the fees received by the Board and transferred to the Treasurer of Ontario for the fiscal year ending March 31st, 1967 and the preceding six years. In conformity with the present system of provincial accounting this table is given for the fiscal year only, in contrast to other statistics contained in this report, which are made for the calendar year ending December 31st, 1967.

Fiscal Year	Amount
1960-61	$ 320,021.63
1961-62	294,001.91
1962-63	319,086.12
1963-64	308,631.05
1964-65	308,066.04
1965-66	442,623.27
1966-67	578,484.00

The revenues of the Board for the calendar year 1967 amounted to $568,050.52.

All of which is respectfully submitted.

J. A. KENNEDY
CHAIRMAN

R. SCOTT
SECRETARY

D. H. SUTHERLAND
REGISTRAR

This is SCHEDULE "A" to the 62nd ANNUAL REPORT of THE ONTARIO MUNICIPAL BOARD

for the year 1967, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Decisions Granting Annexations - 1967

Date of Decision		Effective Date	Area - acres
Mar. 14, 1967	To : AURORA TOWN		
	From: Whitchurch Township	Jan. 1, 1968	102.70
Oct. 19, 1967	To : BARRIE CITY		
	From: Innisfil Township	Nov. 17, 1967	50.00
Oct. 6, 1966	To : CALVERT TOWNSHIP		
	From: Iroquois Falls Town (part)	Jan. 1, 1967	7.91
June 19, 1967	To : CARDINAL VILLAGE		
	From: Edwardsburg Township	Jan. 1, 1968	100.00
Aug. 22, 1967	To : ELMIRA TOWN		
	From: Woolwich Township	Jan. 1, 1968	287.59
May 26, 1967	To : FLESHERTON VILLAGE		
	From: Artemesia Township	July 1, 1967	6.15
June 27, 1966	To : GALT CITY		
	From: North Dumfries Township	Jan. 1, 1967	0.641
Mar. 30, 1966	To : HANOVER TOWN		
	From: Bentick Township	Jan. 1, 1967	150.80
May 8, 1967	To : HESPELER TOWN		
	From: Waterloo Township	Jan. 1, 1968	233.70
June 2, 1967	To : LEAMINGTON TOWN		
	From: Mersea Township	Sept. 1, 1967	76.00
Oct. 24, 1967	To : NORTH BAY CITY		
	From: Widdifield Township	Jan. 1, 1968	18,000.00
	West Ferris Township	Jan. 1, 1968	11,600.00
Mar. 21, 1967	To : PLUMMER ADDITIONAL TOWNSHIP		
	From: Plummer Township	Jan. 1, 1968	-
	Rose Township (west half)	Jan. 1, 1968	-
Jan. 9, 1967	To : PORT CREDIT TOWN		
	From: Toronto Township	Mar. 1, 1967	1,117.00
Sept.20, 1967	To : RICHMOND HILL TOWN		
	From: Markham Township	Jan. 1, 1968	318.50

Schedule "A" continued

Date of Decision		Effective Date	Area - acres
June 1, 1967	To : TILBURY TOWN From: Tilbury East Township	July 3, 1967	49.80
Apr.14, 1967	To : TRENTON TOWN From: Murray Township	Jan. 1, 1968	8.64
Nov.18, 1965	To : WEST FERRIS TOWNSHIP From: East Ferris Township	Jan. 1, 1966	6,350.00

AMALGAMATIONS - 1967

July 21, 1967	The Township of Whitby and the Town of Whitby	Jan. 1, 1968

This is SCHEDULE "B" to the 62nd ANNUAL REPORT of THE ONTARIO MUNICIPAL BOARD

for the year 1967, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Classification of Municipal Capital Expenditures
approved During 1967

I - MUNICIPAL

	Amount Approved	1967	1966
(1) General Government			
Civic Buildings	$ 7,221,405.71		
Civic Equipment	146,492.00	$ 7,367,897.71	$ 8,238,544.84
(2) Protection to Persons & Property			
Fire	1,290,997.65		
Police	1,195,000.00		
Street Lighting	668,325.89	3,154,323.54	6,484,341.06
(3) Public Works			
a) Grade Separations	1,769,000.00		
Streets, Roads, Lanes	58,669,170.39		
Sidewalks	5,933,865.85		
Bridges	4,970,786.95		
Tunnels & Subways	81,132,000.00		
Road Machinery	1,000,139.13		
Conservation	3,248,153.18		
Waterways	202,500.00		
Workshops, Yards	1,054,780.00	157,980,395.50	72,528,351.19
b) Watermains	13,737,101.12		
Storm Sewers	45,462,180.15	59,199,281.27	61,891,224.64
(4) Sanitation & Waste Removal			
Sanitary Sewers	22,228,990.80		
Sewage Treatment	10,160,960.67		
Garbage	615,000.00	33,004,951.47	62,560,549.40
(5) Health			
Clinics	1,234,109.00		
Hospitals	22,233,835.41	23,467,944.41	5,720,885.20
6) Social Welfare			
Homes for Aged	13,812,453.23	13,812,453.23	6,040,598.41
7) Recreation Services			
Amusement Parks	4,515,671.60		
Skating Rinks, Arenas	1,552,354.76		
Swimming Pools	1,681,970.00		
Community Centres	4,447,715.32	12,197,711.68	14,787,210.60

(8) Community Services	Amount Approved	1967	1966
Libraries	$ 2,183,669.60		
Museums, Markets	712,580.00		
Housing	686,521.78	3,582,771.38	11,593,008.77
Total General Government		$ 313,767,730.19	$ 249,844,714.11

II - EDUCATION

Elementary Schools	$173,364,983.61		
Secondary Schools	69,503,078.05	$ 242,868,061.66	$ 317,761,000.41

III - UTILITIES

Gas	$ 28,720.00		
Electricity	15,152,336.14		
Waterworks	9,408,607.49		
Telephone - municipal	560,000.00		
Transportation	5,706,625.00		
Acquisition of lands	14,493,850.00		
Others: including parking lots	6,609,615.00	$ 51,959,753.63	$ 51,625,962.09

S U M M A R Y

General Government	$ 313,767,730.19	$ 249,844,714.11
Education	242,868,061.66	317,761,000.41
Municipal Enterprises	51,959,753.63	51,625,962.09
	$ 608,595,545.48	$ 619,231,676.61